COMMON COUNCIL
REGULAR SESSION
November 18, 2015

In the Council Chambers of the Showers City Hall on Wednesday, November 18, 2015 at 7:35 pm with Council President Dave Rollo presiding over a Regular Session of the Common Council.

ROLL CALL

Roll Call: Rollo, Ruff, Mayer, Volan, Granger, Sturbaum, Neher, Sandberg, Spechler
Absent: None

AGENDA SUMMATION

Council President Rollo gave the Agenda Summation

APPROVAL OF MINUTES

Regular Sessions of May 21, 2014, October 15, 2014 and November 4, 2015 were approved by a voice vote.

REPORTS

- COUNCIL MEMBERS

Tim Mayer wished councilmember Dorothy Granger a Happy Birthday.

Marty Spechler mentioned that the IU Men's Soccer Team was invited to the NCAA Tournament that they had won eight times in prior years. The team would play Sunday, November 22, 2015 at noon. He said the team had a successful year, and he looked forward to seeing their performance.

Steve Volan blew on a noisemaker and wished Granger a Happy Birthday. Other councilmembers joined in on the noisemaking.

Ruff thanked Spechler for being his proxy at the Metropolitan Planning Organization (MPO) meeting.

- The MAYOR AND CITY OFFICES

There were no reports at this meeting.

- COUNCIL COMMITTEES

There were no reports from council committees at this meeting.

- PUBLIC

President Rollo called for public comment.

Joselyn Whitticker, Corresponding Secretary of Delta Sigma Theta, said that the sorority had sponsored refreshments in the atrium. She spoke about their social agenda of the community, state, and the nation. She said that the sorority reflected diversity in race, employment, and social status; and served to empower women to the things that they would like to do. She said the organization focused on the local community first and was a Christian based sorority.

Spechler asked why the organization chose to be Christian based and excluded Jews, Muslims, and non-religious individuals.

Whitticker said that the organization did not exclude anyone based on race, religion, or creed.

Volan noted that Whitticker served on the Marion City Council. He said that more people should take advantage of the public comment section and share information about important events in the community.

Whitticker said that it was a national problem and that most people did not want to become political. She said that people needed to come together to come to decisions that served the needs of the greater good. She thanked the council for allowing her to share information on the sorority's work.

Daniel McMullen called for a moment of silence in remembrance of the attacks in Paris and Beirut in the past week. He spoke about a data breach in the United States Office of Personnel Management.

APPOINTMENTS TO BOARDS AND COMMISSIONS

There were no appointments to Boards or Commissions at this meeting.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Ordinance 15-24 To Amend the Bloomington Zoning Maps for Two Hundred and Seventy-One Parcels Throughout the City's Jurisdiction (The City of Bloomington, Petitioner)

It was moved and seconded that Ordinance 15-24 be introduced and read by title and synopsis. Deputy Clerk Larabee read the legislation and synopsis, giving the committee recommendation of Do Pass 7-0-0.
It was moved and seconded that Ordinance 15-24 be adopted.

Tom Micuda, Planning and Transportation Director, explained that 271 properties needed to be rezoned; some would be zoned higher, some lower. He explained the ordinance created zoning changes which had been approved by the council in 2007 and resulted in a lawsuit that the city lost. He said the department sent direct mailings to all of the owners of the properties in order to correct issues with the 2007 rezoning. Staff answered owner questions via email and phone calls; and the Plan Commission held two meetings to hear requests to revise the rezoning decision. The Commission received five requests to change the zoning of individual parcels, three of which were decided in favor of the property owners. He gave a brief synopsis of the changes that would be implemented by the ordinance. He said the proposal was thoroughly vetted by the Plan Commission.

Council Questions:
Spechler asked Micuda to clarify what he meant by higher and lower zoning. Micuda said that some zoning rules opened up more uses for the property and were considered "higher" zoning. He said less restrictive zoning gave the property a higher value.

Rollo asked if the new notification method was going to be used in the future. Micuda said that a court decision indicated that the city needed to make a stronger effort to notify property owners of the changes, and the legal department determined that to require direct mail to each individual.

Rollo asked how early would owners be notified before a Plan Commission meeting. Micuda said that the city was required to send it at least three weeks prior, but the department chose to issue notification five weeks prior in order to give enough time for questions and comments to be sent to the department.

Volan asked how the department determined how properties should be zoned. Micuda said that the decision was made from a combination of current property use, surrounding property use, and policy related documents.

Volan asked if zoning should follow use or if use should follow zoning. Micuda said that it was dependent on location and zoning philosophy.

Spechler asked if the neighbors of property owners were notified of the change and if they had a say in the changes. Micuda said that adjacent property owners could object to the process if they chose but only property owners were notified. He said that adjacent property owners were notified when a zoning change was requested by a private development.

Spechler asked if the city could erect a small sign to notify neighbors of the changes. Micuda said that signs were required for private development, but the department did not do that for city initiated actions. He said that notice was also listed in the newspaper.

Public Comment:
Daniel McMullen spoke about open forums and historic preservation.

Cheryl Underwood said that she had filed a lawsuit against the city four and a half years prior to this meeting because her properties were rezoned without notification. She said it was sad that the city council and mayor wasted taxpayer money on fighting the litigation which she ultimately won. She accused the council of being unaware of the actions

of the planning department.

Council Comment:
Volan said that Underwood was correct in her litigation, and the council was not willing to act to correct the mistakes of the administration. He said he felt the case should not have gone to the Supreme Court, and he took responsibility for the council's lack of action. He said the council needed to decide if printed documents or existing use would be given priority in decision making about zoning and used Smallwood as an example of failed policy in zoning.

Ruff noted the council was accused of being asleep at the wheel. He asked staff why the administration appealed the court decision as many times as they did. Mulvihill said that every enacted ordinance did not need to have individual notice, but it did require notice through local media. She said that statute indicated that notice needed to be given to interested parties. Interested parties and method of notice were determined by the Plan Commission, and they considered every Bloomington citizen as an interested party and chose to notify them through local media. She said that the administration appealed the court's decision to clarify how to give notice and who should be considered an interested party in order to avoid future problems. Micuda reminded the council that a new procedure had been implemented in attempt to avoid future litigation.

Ruff said he disagreed with Volan that the council dropped the ball on the issue, and he reiterated that agreement with the administration did not mean that councilmembers were not doing their job.

Sturbaum congratulated Underwood for her victory in the litigation. He said that the Plan Commission was able to revisit some issues with the original zoning and correct issues. He encouraged the council to move on and lose with grace. He said that most of the large buildings downtown were built before the current zoning laws were implemented, and the Commission and city learned from their mistakes.

Neher said that the city moved forward in good faith with the new zoning, but they did not have clear direction from the court despite the appeals. He said that another law suit could be brought against the city. He said that big changes were yet to come through the Growth Policies Plan revision which he asserted would be the greatest challenge of the next council and administration. He said he hoped the community would become involved in the process.

Sandberg thanked Ruff for obtaining clarification from staff. She objected to the accusation that the council was asleep at the wheel, and she said the administration demonstrated no malfeasance in their efforts to pursue clarification through the court system. She said she would support the ordinance.

Mayer thanked Micuda and Mulvihill for their work, and he said it was unfortunate that clarification did not come from the court.

Spechler said that individual notices to property owners was the proper way to notify interested individuals. He said that the last round of zoning changes were properly notified through local media, and he said that less than 1% of the changes made were overturned. He said the city needed to change with the law.

Volan said he did not intend to impugn the motive of the administration or the council, but he felt that appealing the lawsuit was the wrong decision. He objected to the speed at which the council heard legislation and made decisions. He said that the city should admit their mistakes, and he said he would support the ordinance.

The motion to adopt Ordinance 15-24 received a roll call vote of Ayes: 9, Nays: 0

LEGISLATION FOR FIRST READING

Appropriation Ordinance 15-06 To Specially Appropriate from the General Fund, Risk Management Fund, and Rental Inspection Program Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds within the General Fund, Solid Waste Fund, Alternative Transportation Fund; and, Appropriating Additional Funds from the Municipal Arts Fund, Risk Management Fund, BMFC Showers Bond, Parking Facilities, Police Pension, and Rental Inspection Program Fund)

Appropriation Ordinance 15-06

Ordinance 15-25 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District – Re: Courthouse Square Historic District (Bloomington Historic Preservation Commission, Petitioner)

Ordinance 15-25

There was no public comment at this portion of the meeting.

PUBLIC COMMENT

Dan Sherman, Council Attorney/Administrator, noted that the 2016 Council Schedule was up for approval. The council fulfilled the public notice requirements by publishing an annual schedule. He gave the details of the schedule.

COUNCIL SCHEDULE

Volan asked when the budget hearings would begin. Sherman said they would begin on August 22, 2016.

Granger asked if newly elected councilmembers had been informed of the schedule. Sherman said the newly elected officials had been notified.

The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain 1 (Neher).

It was moved and seconded to authorize a letter from the council to the BUEA requesting transitional funding for operation of community sheltering project after 2015.

The motion received a roll call vote of Ayes: 9, Nays: 0.

Sherman noted that there would not be a meeting the following week in observance of the Thanksgiving Holiday. He said that the council may want to hold additional meetings.

It was moved and seconded to schedule a Committee of the Whole on December 2, 2015 after the scheduled Regular Session and a Special Session on December 9, 2015 before the scheduled Committee of the Whole.

The motion received a roll call vote of Ayes: 9, Nays: 0.

The meeting was adjourned at 9:14 pm.

ADJOURNMENT

APPROVE:

Dave Rollo, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington